

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF PUERTO RICO

Peter L. GRIECO # 96A2050,)

Plaintiff,)

COMPLAINT

v.)

Civil Action No.: 09-1859 (SEC)

Department of the Treasury)

Secretary of the Treasury of Puerto Rico,)

Defendant)

COMPLAINT

Date: August 3rd, 2009

RECEIVED AND FILED
2009 AUG 28 ... 10:45
CLERK'S OFFICE
U.S. DISTRICT COURT
SAN JUAN, P.R.

By: Peter L. Grieco
(Signature of attorney of unrepresented party)

Peter L. Grieco # 96A2050

(Printed name)

Southport Correctional Facility

P.O. Box 2000

Pine City, N.Y. 14871

N/A

(E-mail address)

N/A

(Telephone number)

STATEMENT OF JURISDICTION

- A.) This action arises under a federal statute, 5 U.S.C. § 552.
- B.) This Court has subject matter jurisdiction to review this matter as it directly pertains to the actions of a Federal Agency, whose officers act under authority of Title 50 U.S.C. App. § 7(c)(e). This court has personal jurisdiction over the Defendant because the Defendant is an officer/employee of the United States Government, duly appointed to office.
- C.) This Court has personal jurisdiction over both plaintiff and defendant, in that defendant is a federal agency whose principle office is located within the District of Puerto Rico. Plaintiff is a citizen of the United States pursuant to U.S. Const. Amend. 14.

COMPLAINT FOR FAILURE TO PERFORM A STATUTORILY MANDATED DUTY

I, Peter L. Grieco # 96A2050, am the plaintiff pro se in the above-captioned matter, and I make the following complaint:

I compiled the F.O.I.A. Request on the 19th day of May 2009, and subsequently mailed it via Priority Mail—Certified Return Receipt Requested, on the 26th day of May, 2009; which was received and signed for on the 1st day of June 2009, see Exhibit “B”, I sent the request, pursuant to 5 U.S.C. § 552, Freedom of Information Act (hereinafter F.O.I.A.), to Secretary of the Treasury of Puerto Rico. I received no response.

- 1) Department of Treasury, Secretary of the Treasury of Puerto Rico, a Federal Officer/Agent located at Department of Treasury, P.O. Box 9024140, San Juan, Puerto Rico 00902-4140, subject to the provisions of said F.O.I.A. Statute. I claim that the agency did not comply with the provisions of the F.O.I.A. Statute.
- 2) Within Department of Treasury, the officer(s), and/or person(s) responsible for processing my F.O.I.A. request are: Secretary of the Treasury of Puerto Rico, and the

location of the office from which said person(s) or officer(s) performs their official administrative duties as relates to this complaint is located at Department of Treasury, Secretary of the Treasury of Puerto Rico, P.O. Box 9024140, San Juan, Puerto Rico 00902-4140, such person(s) or officer(s) failed to provide the requested material, and/or failed to provide a valid reason for withholding the sought after information.

- 3) The specific information sought through the F.O.I.A. Request made is: I requested to know whether a document that I had previously submitted for filing had been processed; a copy of the specific F.O.I.A. Request is attached as Exhibit "A" and a copy of the proof of receipt of the "Order to Perform/Termination Statement" to which the F.O.I.A. at issue refers, is attached as Exhibit "C", or in the alternative that the agency provide me with a copy of the agency's policy for obtaining records in accordance with Title 5 U.S.C. § 552(a)(1)(A) and said agency was required to provide said information within 20 business days of receipt of the written request pursuant to Title 5 U.S.C. § 552(a)(6)(A)(i), or in the alternative pursuant to Title 5 U.S.C. § 552(a)(6)(B)(i), to provide an estimated time-frame as to when such requested material(s) would be made available, or in further alternative pursuant to Title 5 U.S.C. § 552(a)(6)(C) to deny the request and set forth the legally valid reason for doing such denial.
- 4) As of the date of this filing, I have not received any response; neither the records, a denial with proper appeal procedures set forth nor the information requested.
- 5) The continued refusal to provide the requested information is in violation of the law and said agency and/or it's officer(s) have no legal right to withhold the sought after information.
- 6) I respectfully request that this Court liberally apply any rules pertaining to form and/or content with regards to the structure of this complaint as I am a pro se litigant not versed in the technical nuances of legal writing and motion composition.

WHEREFORE, I respectfully request that this court issue an order enjoining the Department of Treasury, Secretary of the Treasury of Puerto Rico, to refrain from failing to provide the requested information within 30 days of this Court's Order, or in the alternative, to justify why the agency has not provided the requested information; including an itemized index of the documents claimed to be exempt, correlating specific statements in such justification with actual portions of the requested documents; and further

ORDERING that copies of any papers submitted to this Court be served upon the plaintiff at least 15 days prior to any scheduled hearing date relating to this matter; and for such other and further relief as to this Court seems just and equitable.

Respectfully Submitted, Peter L. Grieco
Peter L. GRIECO # 96A2050
Southport Correctional Facility
P.O. Box 2000
Pine City, N.Y. 14871

Dated: August 6th, 2009

I declare under penalty of perjury that the foregoing is true and correct to my own knowledge except to the matters stated herein upon information and belief, and as to those matters, I believe them to be true.

Sworn and subscribed to before me on this
6th day of August, 2009.

Herman Liebson
Notary Public

HERMAN LIEBSON
Notary Public, State of New York
Chemung Co. Reg. No. 01160361
Commission Expires January 18, 2010

FORM A — Notice of Motion

UNITED STATES DISTRICT COURT

DISTRICT OF PUERTO RICO.

Peter L. GRIECO # 96A2050,

Plaintiff(s),

NOTICE OF MOTION

v.

_____-CV-_____

Department of the Treasury
Secretary of the Treasury of Puerto Rico

Defendant(s).

PLEASE TAKE NOTICE, that the undersigned will bring a motion before this Court on a date and time which will be provided by the Court later. This motion will be brought in the United States District Court for the District of Puerto Rico, pursuant to Title 5 U.S.C. § 552(a)(4)(B) to enjoin the Defendant from withholding information requested pursuant to Title 5 U.S.C. § 552 et seq.

By: Peter L. Grieco

Peter L. Grieco # 96A2050 , Plaintiff
Southport Correctional Facility
P.O. Box 2000
Pine City, New York 14871

FORM B: — AFFIDAVIT OR AFFIRMATION IN SUPPORT OF MOTION
(If you are having your signature notarized, use this form)

UNITED STATES DISTRICT COURT

DISTRICT OF PUERTO RICO

Peter L. GRIECO # 96A2050,

Plaintiff(s),

**AFFIDAVIT/AFFIRMATION
IN SUPPORT OF MOTION**

v.

_____-CV-_____

Department of the Treasury
Secretary of the Treasury of Puerto Rico

Defendant(s)

STATE OF NEW YORK)
)ss:
COUNTY OF CHEMUNG)

I, Peter L. Grieco, make the following affirmation under penalty of perjury:

2. I am the Plaintiff in the above-entitled action and respectfully request that the Court issue an order directing the above named defendant to comply with the law and answer the F.O.I.A. request that was submitted, or show why said party is not lawfully required to provide the answer requested.

3. The reasons why I believe I am entitled to the relief I seek are set forth below.

4. (A.) I made a request pursuant to Title 5 U.S.C. § 552 et seq. for information that is not exempt from disclosure, that specifically pertains to me, and plaintiff believes the information does not fall into any one of the categories under which the defendant could claim to not be bound by the provisions of the controlling statute.

(B.) Defendant's office contains the requested information, even if the actual appointed officer who is directly responsible for handling the information at issue has been changed.

(C.) The office at issue is a Federal Department/Agency and the person in charge of overseeing the office is appointed to the position, pertinent to the information sought, pursuant to Title 50 of the U.S.C. and subsequent Executive Orders.

- (D.) On the F.O.I.A. Request form, it is clearly stated that plaintiff requests the information sought, or in the alternative the policy for getting such information pursuant to Title 5 U.S.C. § 552(a)(1)(A), please see Exhibit "A".
- (E.) Title 5 U.S.C. § 552(a)(4)(B) specifically permits plaintiff to bring this matter in this Court, and further affords this Court the authority to enjoin the Department/Agency from withholding the records sought.
- (F.) Finally, plaintiff is a citizen of the State of New York and of the United States and holds a constitutional right to access the Courts.

5. I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge, information and belief.

Dated: 8-6-2009

Peter L. Grieco

Peter L. Grieco # 96A2050

Sworn and subscribed to before me on this

6th day of August, 2009.

Herman Liebson

Notary Public

HERMAN LIEBSON
Notary Public, State of New York
Chemung Co. Reg. No. 011160361
Commission Expires January 18, 2010